

9 FAM 41.101

Place of application.

(TL:VISA-194; 06-15-1999)

(a) Application for regular visa made in consular district of alien's residence or alien's presence.

(TL:VISA-194; 06-15-1999)

(1) An alien applying for a nonimmigrant visa shall make application at a consular office having jurisdiction over the alien's place of residence, or if the alien is a resident of Taiwan, at the American Institute in Taiwan, unless—

(i) The alien is physically present in the United States and is entitled to apply for issuance or reissuance of a visa under the provisions of sec. 41.111(b); or

(ii) A consular office having jurisdiction over the area in which the alien is physically present but not resident has agreed, as a matter of discretion or at the direction of the Department, to accept the alien's application.

(iii) The alien is subject to INA 222(g) and must apply as set forth in paragraph (b) or (c) of this section.

[Amended by 63 FR 669; Jan. 7, 1998.]

(2) The Deputy Assistant Secretary of State *for Visa Services* is authorized to designate the geographical area for which each consular office possesses jurisdiction to process nonimmigrant visa applications.

[Amended by 63 FR 669; Jan. 7, 1998.]

(b) Place of application for persons subject to INA 222(g).

(TL:VISA-177; 04-30-1998)

Notwithstanding the requirements of paragraph (a) of this section, an alien whose prior nonimmigrant visa has been voided pursuant to INA 222(g), who is applying for a new nonimmigrant visa, shall make application at a consular office which has jurisdiction in or for the country of the alien's nationality unless extraordinary circumstances have been determined to exist with respect to that alien as set forth in paragraph (c) of this section.

[Amended by 63 FR 669; Jan. 7, 1998.]

(c) Exceptions based on extraordinary circumstances.

(TL:VISA-184; 01-22-1999)

(1) An alien physician serving in underserved areas of the United States under the provisions of INA 214(l) for whom an application for a waiver of the 2-year foreign residence requirement and/or a petition to accord H-1B status was filed prior to the end of the alien's authorized period of stay and was subsequently approved, but whose authorized stay expired during the adjudication of such application(s), shall make application in accordance with paragraph (a) of this section.

(2) Any other individual or group whose circumstances are determined to be extraordinary, in accordance with paragraph (d)(1) of this section, by the Deputy Assistant Secretary for Visa Services upon the favorable recommendation of an immigration or consular officer, shall make application in accordance with paragraph (a) of this section.

(3) An alien who has, or immediately prior to the alien's last entry into the United States had, a residence in a country other than the country of the alien's nationality shall apply at a consular office with jurisdiction in or for the country of residence.

(4) An alien who is a national and resident of a country in which there is no United States consular office shall apply at a consular office designated by the Deputy Assistant Secretary for Visa Services to accept immigrant visa applications for persons of that nationality.

An alien who possesses more than one nationality and who has, or immediately prior to the alien's last entry into the United States had, a residence in one of the countries of the alien's nationality shall apply at a consular office in the country of such residence.

[Amended by 63 FR 669; Jan. 7, 1998, corrected by 63 FR 36365, July 6, 1998.]

(d) Definitions relevant to INA 222(g).

(TL:VISA-177; 04-30-1998)

(1) Extraordinary circumstances—Extraordinary circumstances may be found where compelling humanitarian or national interests exist or where necessary for the effective administration of the immigration laws. Extraordinary circumstances shall not be found upon the basis of convenience or financial burden to the alien, the alien's relative, or the alien's employer.

(2) Nationality—For purposes of paragraph (b) of this section, a stateless person shall be considered to be a national of the country which issued the alien's travel document.

[Amended by 63 FR 669; Jan. 7, 1998.]

(e) Regular visa defined.

(TL:VISA-2; 08-30-1987)

“Regular visa” means a nonimmigrant visa of any classification which does not bear the title “Diplomatic” or “Official.” A nonimmigrant visa is issued as a regular visa unless the alien falls within one of the classes entitled to a diplomatic or an official visa as described in §41.26(c) or §41.27(c).

9 FAM 41.101 Related Statutory Provisions

INA 222(g)

(TL:VISA-177; 04-30-1998)

For the provisions of INA 222(g), see 9 FAM 40.68 Related Statutory Provisions.